

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

ISAAC WASHINGTON,

Plaintiff,

V.

JEFFERSON DUNN, et al.,

Defendants.

$$\begin{array}{c}) \\) \\) \\) \\) \\) \\) \\) \end{array}$$

Case No.: 2:18-cv-00785-KOB-JHE

ORDER

The magistrate judge entered a report on May 21, 2020, recommending all claims in this action, except the Eighth Amendment claims against Dentist Dr. John Doe and Officers Johnson and Fox for monetary damages be dismissed without prejudice pursuant to 28 U.S.C. § 1915A(b) for failing to state a claim upon which relief can be granted. (Doc. 10). The magistrate judge further recommended the plaintiff's Eighth Amendment claims against Dr. John Doe and Officers Johnson and Fox be referred back to the magistrate judge for further proceedings. (*Id.* at 13).

The plaintiff objects to the dismissal of his Eighth Amendment dental care claims against Warden Bolling and Miree, and in so doing alleges that his May 2, 2018 transport to “UAB Hospital” had been unreasonably delayed for twenty days because Bolling and Miree knew his broken tooth required emergency medical treatment as per Dr. John Doe and also knew that he was in extreme pain and could

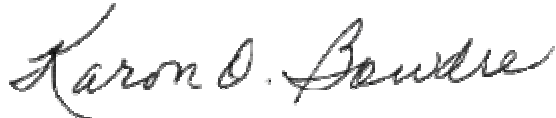
not eat. (Doc. 11 at 2-3). The plaintiff repeats that Bolling and Miree refused to intervene on his behalf to alleviate the extreme pain he reported between April 10, 2018 and May 2, 2018, declaring that the May 2, 2018 procedure at UAB was in fact for “emergency” extraction of the broken tooth. (*Id.*). Finally, the plaintiff alleges for the first time that on May 3, 2018 and May 4, 2018, Bolling and Miree knew that defendants Johnson and Fox prevented him from attending pill call to take his post-surgical medication. (Doc. 11 at 2).

Because the objections contain additional facts not present in the initial complaint the court considers them to be, in part, an amendment to his complaint. The augmented factual allegations are sufficient, for 1915A screening purposes, to suggest plausible Eighth Amendment claims against defendants Bolling and Miree for deliberate indifference to his serious dental needs.

Having carefully reviewed and considered *de novo* all the materials in the court file, including the report and recommendation, the objections to it and the amendment to the plaintiff’s complaint, the magistrate judge’s report is hereby **ADOPTED** and the recommendation is **ACCEPTED** as **MODIFIED**. The court **ORDERS** that all claims in this action, except the Eighth Amendment claims against Dentist Dr. John Doe, Wardens Bolling and Miree, and Officers Johnson and Fox for monetary damages are **DISMISSED WITHOUT PREJUDICE** pursuant to 28 U.S.C. § 1915A(b). The court further **ORDERS** that the Eighth Amendment claims

against Dentist Dr. John Doe, Wardens Bolling and Miree, and Officers Johnson and Fox for monetary damages are **REFERRED** to the magistrate judge for further proceedings.

DONE and **ORDERED** this 10th day of February, 2021.

A handwritten signature in cursive script, reading "Karon O. Bowdre".

KARON OWEN BOWDRE
UNITED STATES DISTRICT JUDGE